

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2014010254

ORDER GRANTING  
DISTRICT'S REQUEST FOR A  
CONTINUANCE TO DATES  
SELECTED BY STUDENT AND  
SETTING MEDIATION, PREHEARING  
CONFERENCE AND HEARING

On February 5, 2014, District filed a request to continue all dates, such that the hearing would occur in May of 2014. The reason given was that District's attorney was not available on the current mediation and hearing dates and that District's attorney was the only person authorized to represent District. District's attorney did not demonstrate unavailability for any time after the current dates or before May of 2014. Student opposed on the ground that Student was entitled to a speedy disposition. Student offered dates closer in time that were not identified in District's motion as unavailable.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. To the dates requested by Student. All dates are vacated. District's attorney having some kind of exclusive relationship to represent District is not good cause to continue this matter. Similarly, District has not shown good cause to continue the hearing to May of 2014 by asserting that its counsel is not available on the current dates. However, because Student agreed to a shorter continuance on dates District's counsel did not demonstrate unavailability, the request will be granted to the dates proposed by Student. This matter will be set as follows:

Mediation:	February 27, 2014 at 9:30 AM
Prehearing Conference:	March 14, 2014 at 1:00 PM
Due Process Hearing:	March 24-27, and April 1-3, 2014 at 1:30 PM first day, 9:00 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

[NOTE: March 31, 2014 is a state holiday.]

IT IS SO ORDERED.

DATE: February 11, 2014

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RICHARD T. BREEN  
Presiding Administrative Law Judge  
Office of Administrative Hearings